

The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. County use taxes are not imposed on purchasers for the purchase of tangible personal property other than titled and registered property. See 86 Ill. Adm. Code 220.115. (This is a GIL.)

March 16, 2004

Dear Xxxxx:

This letter is in response to your e-mailed letter dated February 19, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

If we are billed by vendors that ship goods to us within the state of IL, are we required to assess use taxes at a rate higher than 6.25%. The additional rate I am thinking that would apply is a county rate, Is there a county rate in addition to the 6.25%?

Please respond as soon as possible.

Department's Response:

At the local level, no county use tax is imposed on the use of tangible personal property other than property that is titled or registered with the State. There is, however, a local occupation tax imposed on retailers. Retailers subject to this tax are authorized to collect reimbursement for their tax liability from purchasers. So, as a purchaser who self-assesses use taxes, you are not required to self-assess use taxes above the 6.25% statewide rate.

For your general information, please see the enclosed copy of Sec. 220.115 of the Home Rule County Retailers' Occupation Tax for guidance concerning jurisdictional questions. In general, the imposition of the various sales-tax-related local taxes in Illinois are triggered when "selling" occurs in

a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. If a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 220.115. Conversely, if a purchase order is accepted in a jurisdiction that does not impose a local tax, including anywhere outside Illinois, no local tax will be incurred.

The tax rate is fixed by the location of the seller, not the delivery location. The fact that the item being sold is shipped from out-of-State or from another Illinois location is immaterial for purposes of local taxes if the sale occurs through order acceptance in an Illinois jurisdiction imposing a local tax. For these transactions the local tax will be incurred. Although 86 Ill. Adm. Code 220.115 deals with the county home-rule taxes, the principles outlined in this administrative rule apply to all local taxes administered by the Department.

If a purchase order is accepted outside the State, but the property being sold is located in the inventory of the retailer in an Illinois jurisdiction that has imposed a local tax (see, for example, Section 220.115(c)(2)), then the location of the property at the time of sale will determine where the seller is engaged in business for the purpose of determining the imposition of applicable local sales taxes.

In summary, the tax that you, as a purchaser, must pay is determined by the taxes, including local taxes, imposed in the jurisdiction where the purchase order is accepted, to the extent that the purchase order is accepted in Illinois. For purchase orders accepted outside Illinois from purchasers located in Illinois, except as otherwise provided in 86 Ill. Adm. Code 220.115(c)(2), the tax rate is 6.25%, because the only tax that applies in this instance is use tax and counties do not impose a use tax on tangible personal property other than items that are titled or registered with the State.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

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